

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS**

ROBYN RENEE ESSEX,)
et al.,)
Plaintiffs,)
)
)
v.)
)
KRIS W. KOBACH,)
Kansas Secretary of State,)
)
Defendant,)
)
and)
)
THE STATE OF KANSAS *ex rel.*)
DEREK SCHMIDT, Attorney)
General of Kansas,)
)
Intervenor/Defendant)
)
)
 _____)

CIVIL ACTION

Case No. 12-CV-4046-KHV-JWL

**ANSWER OF INTERVENOR/DEFENDANT THE STATE OF KANSAS,
ex rel. DEREK SCHMIDT, ATTORNEY GENERAL OF KANSAS**

COMES NOW the State of Kansas, on the relation of Derek Schmidt, Attorney General of Kansas, by and through counsel, and respectfully Answers the Complaint for Declaratory and Injunctive Relief on file herein to the best of his present knowledge and belief:

JURISDICTION

1. Admitted.

PARTIES

2. All responses of Defendant Kris W. Kobach, Kansas Secretary of State, regarding the parties to this matter are adopted by this Intervenor.

STATEMENT OF FACTS

3. The responses of Defendant Kris W. Kobach, Kansas Secretary of State, to the allegations of paragraphs 5 through 12 are adopted by this Intervenor.

4. Intervenor Kansas Attorney General Derek Schmidt admits Complaint paragraph 13. A number of bills and maps passed various legislative committees and bodies; however, no redistricting plan passed both houses, was signed by the Governor or published in the Kansas Register prior to adjournment of the 2012 regular session of the Kansas Legislature. Maps receiving differing degrees of support may be found at <http://redistricting.ks.gov/Plans/plans.html>.

5. The responses of Defendant Kris W. Kobach, Kansas Secretary of State, to the allegations of paragraphs 14 through 16 are adopted by this Intervenor.

COUNT I – LEGISLATIVE MALAPPORTIONMENT

6. The responses of Defendant Kris W. Kobach, Kansas Secretary of State, to the allegations of paragraphs 17 through 20 are adopted by this Intervenor.

7. With regard to the allegations of paragraph 21, this Intervenor admits that the 2012 Kansas Legislature adjourned its “regular session” on May 20, 2012, without passage of redistricting bills and admits that no valid election can occur based on existing district boundaries.

8. The responses of Defendant Kris W. Kobach, Kansas Secretary of State, to the allegations of paragraphs 22 through 24 are adopted by this Intervenor.

COUNT II – CONGRESSIONAL REDISTRICTING

9. The responses of Defendant Kris W. Kobach, Kansas Secretary of State, to the allegations of paragraphs 25 through 29 are adopted by this Intervenor.

10. With regard to the allegations of paragraph 30, this Intervenor admits that the 2012 Kansas Legislature adjourned its “regular session” on May 20, 2012, without passage of redistricting bills and admits that no valid election can occur based on existing district boundaries.

11. The responses of Defendant Kris W. Kobach, Kansas Secretary of State, to the allegations of paragraphs 31 through 33 are adopted by this Intervenor.

COUNT III – STATE SCHOOL BOARD MALAPPORTIONMENT

12. The responses of Defendant Kris W. Kobach, Kansas Secretary of State, to the allegations of paragraphs 34 through 39 are adopted by this Intervenor.

13. With regard to the allegations of paragraph 40, this Intervenor admits that the 2012 Kansas Legislature adjourned its “regular session” on May 20, 2012, without passage of redistricting bills and admits that no valid election can occur based on existing district boundaries.

14. The responses of Defendant Kris W. Kobach, Kansas Secretary of State, to the allegations of paragraphs 41 through 43 are adopted by this Intervenor.

PRAYER FOR RELIEF

WHEREFORE, Intervenor the State of Kansas, on the relation of Attorney General Derek Schmidt, prays the Court to order the following relief:

1. Pursuant to 28 U.S.C. § 2284(a), convene a three-judge panel to adjudicate this matter;

2. Issue a permanent injunction and judgment decreeing that the plan of legislative apportionment established in 2002 by the Kansas Legislature in Chapter 4 of

the Kansas Statutes may not hereafter be used as a valid plan of legislative apportionment, congressional apportionment or state board of education apportionment;

3. Issue an order including a valid plan of legislative reapportionment, congressional reapportionment and state board of education reapportionment with a level of deviation that is clearly within the parameters of the United States Constitution and United States Supreme Court case law;

4. Hold in abeyance consideration of any award of attorneys fees or costs pending further proceedings on this issue; and

5. Grant such other and further relief as this Court deems just and equitable.

Respectfully submitted,

OFFICE OF ATTORNEY GENERAL
DEREK SCHMIDT

s/ Jeffrey A. Chanay

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CERTIFICATE OF SERVICE

I hereby certify that on May 24, 2012, I electronically filed the foregoing with the clerk of the court by using CM/ECF system which will send a notice of electronic filing to all counsel of record.

s/ Jeffrey A. Chanay _____
Jeffrey A. Chanay
Deputy Attorney General, Civil Litigation Division